Exhibit 10

1   IN THE UNITED STATES DISTRICT COURT

2   NORTHERN DISTRICT OF CALIFORNIA

3   SAN FRANCISCO DIVISION

4

5   IN RE FACEBOOK BIOMETRIC INFORMATION PRIVACY

6   LITIGATION,

7

8   Master Docket No.: 3:15-CV-03747-JD

9

10 _____

11 FREDERICK WILLIAM GULLEN,

12   Plaintiff,

13 vs.   Case No. 3:16-cv-00937-JD

14 FACEBOOK, INC.,

15   Defendant.

16 _____

17

18   HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

19

20   Videotaped Deposition of DAN BARAK, taken

21 at 3000 El Camino Real, Palo Alto, California, on

22 Tuesday, October 10, 2017, at 9:10 a.m.

23

24 REPORTED BY:

25 Mary Hogan, CSR No. 5386

 1   Q   Yours, but not necessarily the other

 2   seven or the other six, I should say?

 3   A   Yes.

 4   Q   And did there come a time when you

 5   moved to the United States?

 6   A   Yes.

 7   Q   And when was that?

 8   A   October 16, if I remember correctly,

 9   2012.

10   Q   And did you move to your current

11   address?

12   A   No.

13   Q   Where did you move to? You can just

14   tell me the city. I don't need your full address.

15   A   San Francisco.

16   Q   San Francisco.

17   Q   All right. So your official title

18   when you started working at Facebook was product

19   manager?

20   A   Yes.

21   Q   Is there any another part of your

22   title?

23   A   I think all product managers at

24   Facebook are product managers.

25   Q   And were you considered to be part of

1   a particular division within Facebook?

2   A   Yes.

3   Q   What was that division called?

4   A   The photos team.

5   Q   Okay. And were all seven of the

6   Face.com employees who moved to Facebook part of

7   the photos team?

8   A   Yes.

9   Q   And were there other Facebook

10   employees that were part of the photos team?

11   A   Yes.

12   Q   Approximately how many?

13   A   I honestly don't remember.

14   Probably -- I can speculate it was --

15   Q   I don't want you to speculate, but can

16   you estimate, you know, to a reasonable degree?

17   A   Probably around 20.

18   Q   Okay.

19   A   With a large margin of error.

20   Q   That's fine. And that's including the

21   seven of you that came from Face.com, is that

22   correct?

23   A   Including that very big margin of

24   error, yes.

25   Q   Okay. But would you say it was less

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 1        A     I actually don't.

 2        Q     Did you report to anyone else or just

 3  Peter Deng at the time when you first joined

 4  Facebook?

 5        A     Just Peter Deng.

 6        Q     So what were your responsibilities as

 7  a product manager on the photos team when you

 8  first joined Facebook?

 9        A     I was in charge of tag suggestions.

10        Q     Can you expand on that a little?  When

11  you say in charge of tag suggestions, what do you

12  mean by that?

13        A     In charge of the face recognition

14  technology that was powering the tag suggestion

15  features on Facebook.

16        Q     What aspects of the face recognition

17  technology were you in charge of?

18        A     As a product manager, I would help my

19  team prioritize, talk to other teams, general work

20  product managers do essentially.

21        Q     So would you say you were sort of the

22  liaison between the team working on the tag

23  suggestions and other departments within Facebook?

24        A     I wouldn't probably put it exactly

25  like that.
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 1   General product manager

 2   responsibilities, help working within the team and

 3   outside of the team, interacting with other teams.

 4   Q   I'm just trying to understand, for

 5   someone not intimately familiar with what a

 6   product manager does.

 7   Maybe you can take me through some

 8   examples of your typical responsibilities as

 9   product manager for the tag suggestions team?

10   A   An example could be creating the user

11   experience of how tag suggestions are presented to

12   users.

13   Q   Okay. And how would that be done at

14   Facebook?

15   MR. NADOLENCO: Vague.

16   THE WITNESS: Are you asking how those

17   tag suggestions work?

18   Q   (By Mr. Rhodes) No. I'm just trying to

19   understand your example.

20   You say an example would be creating

21   the user experience of how tag suggestions are

22   presented to users.

23   Let's start with this. What other

24   teams, if any, besides the tag suggestions team,

25   would be involved in, as you say, creating the

1   user experience?

2   A   The photos team in general would own

3   how the application shows tag suggestion.

4   Q   Okay. Anyone else?

5   A   I think mostly that.

6   Q   Are there other teams or persons at

7   Facebook who would have input into that process?

8   MR. NADOLENCO: Objection to the

9   extent it lacks foundation.

10   Q   (By Mr. Rhodes) That you know of?

11   A   I'm not sure about what input means.

12   Can you clarify?

13   Q   Well, again, we're just kind of

14   starting with one example of, as you said,

15   creating the user experience.

16   A   Yes.

17   Q   And so I'm just trying to understand,

18   you know, what that means, starting with, you

19   know, who would be involved.

20   Would there be anyone outside of the

21   tag suggestions or photo team that would be

22   involved in that process of creating the user

23   experience?

24   MR. NADOLENCO: Same objection.

25   THE WITNESS: I would -- it's kind of

1   a broad question.

2   There would be engineers on, let's

3   say, an infrastructure team that might interact

4   with where the server -- like which servers are

5   allocated to the software, but I think most of the

6   work would be done within the photos team.

7   Q   (By Mr. Rhodes) Okay. So on a typical

8   project -- strike that.

9   Hold on. All right. So you mentioned

10 that -- going back and quoting from your testimony

11 here, just to refresh your memory, "As a product

12 manager I would help my team prioritize, talk to

13 other teams, generally work product managers do

14 essentially"?

15   A   Uh-huh.

16   Q   Let's take those one by one. How

17 would you help your team prioritize? Well, strike

18 that.

19   First of all, what would you help your

20 team prioritize?

21   A   If we need -- these are kind of

22 hypotheticals because I don't remember the exact

23 details.

24   Let's assume that the feature is

25 presented in a certain way to the user.

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 1              It might require things to work like

 2   faster or slower or, for example, product -- I

 3   actually have a better example.

 4              Like a product might involve only face

 5   recognition or only face detection, for example,

 6   so if then you had a sequence, do first the one,

 7   not the other, or things like that, you know, like

 8   should we, if there is a bug in the system, should

 9   we fix something now or have a longer term fix,

10   general.

11        Q    Okay.  You made a distinction there

12   between face recognition and face detection.  What

13   is face detection?

14        A    Face detection is determining whether

15   there is a face in the photo.

16        Q    And how is that different from face

17   recognition?

18        A    Face recognition is about whose face

19   it is.

20        Q    So would face detection be sort of a

21   first step in the process towards face

22   recognition?

23        A    Face detection stands on its own and

24   can just run face detection.

25              To run face recognition there needs
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1 to happen detection.

2   Q   Right. Thank you. So if there was a

3 new product, for example, that your team was

4 working on, would you be responsible for assigning

5 work to different individuals on the team

6 typically?

7   MR. NADOLENCO: Objection, calls for

8 speculation.

9   THE WITNESS: Typically, no. That

10 would more fall into the scope of the engineering

11 manager's work.

12   Q   (By Mr. Rhodes) Okay. So if you

13 weren't assigning, you know, tasks to people, when

14 you say, you know, help them prioritize, what

15 exactly does that mean?

16   A   Meaning that as a team we need this

17 set of features in this order to ship the product,

18 not who is best suited to work on each of the

19 individual tasks.

20   Q   I see. Is that -- is that the roadmap

21 that you were describing earlier?

22   A   That roadmap from Clarizen was a very

23 specific feature that had nothing to do -- like it

24 was a roadmap or like with a capital R.

25   Q   Right.

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 1        A     If you will.  It was the name of the

 2   product.  In general, products have roadmaps.

 3        Q     Right.  I think there was one other --

 4   I could be mistaken, but I think there was one

 5   other time when you referred to roadmaps

 6   generally, and thank you for clarifying.

 7              That's what I meant, just more

 8   generally, you know, if there was an issue or a

 9   new product or something that the team was working

10   on and you're assisting them in prioritizing, you

11   know, that process, you would help create sort of

12   a roadmap, as you described it, that would

13   facilitate that process.  Is that accurate?

14              MR. NADOLENCO:  Objection, vague and

15   overly broad.

16              THE WITNESS:  Not exactly.  The

17   roadmap does not facilitate.  The roadmap is the

18   set of features and their sequence.

19        Q    (By Mr. Rhodes) Okay.  And you

20   mentioned that you would talk to other teams as

21   part of that process, is that right?

22        A     Yes.

23        Q     Okay.  For what purpose would you talk

24   to other teams as part of your job?

25              MR. NADOLENCO:  Vague and overly
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1   broad, compound.

2   THE WITNESS: In general, team scope

3   overlaps, and then whenever you are building a

4   feature, it touches another team's scope, you

5   would let them know, potentially consult with

6   them, et cetera.

7   Q   (By Mr. Rhodes) What were some of the

8   other teams that you consulted with as part of

9   your role as product manager on the photos team?

10   A   I kind of spent a long time on the

11 photos team, so it's hard to say exactly.

12   Q   Fair enough. I'll limit my question

13 to, let's say, the first year of your work in

14 Facebook.

15   A   I think there might have been a team

16 that was working on the very basic web application

17 for feature phones that would introduce tag

18 suggestion into.

19   I don't remember if there was a

20 composer team but the Facebook composer, we

21 introduced tag suggestions there.

22   Q   What is Facebook composer?

23   A   Whenever you go and like wanted to

24 update your status or post a photo, that is done

25 through the composer.

1   Q   That's -- what you are referring to as

2   the composer is a back end part of the process, is

3   that correct?

4   A   No.

5   Q   No?

6   A   It's the front end.

7   Q   Okay. I see. I'm a Facebook user.

8   I've never heard the composer.

9   I guess that's not what, from a user's

10   perspective, it's called on the website. Is that

11   correct?

12   A   I don't know if there is a user name

13   to that, but the box on top of news feed that you

14   type or post photos through.

15   Q   I see.

16   A   That was composer.

17   Q   That's called the composer, okay. So

18   what other teams did you work with early on in

19   your role as product manager on the photos team?

20   A   I think a lot of the work was mostly

21   focused on the photos team itself.

22   I think other interactions with teams

23   that owned other products were fairly minimal so

24   that's why they don't pop into mind.

25   Q   Did your interaction with other teams

1   grow as you continued at Facebook longer?

2   A   Yes.

3   Q   What were some of the teams that you

4   started interacting with later on in your time at

5   Facebook?

6   A   Probably interacted with the news feed

7   team.

8   It's also important to note that my

9   role changed over the years, and I added more

10   responsibilities, changed responsibilities

11   entirely, et cetera.

12   Q   Okay. Maybe it would be helpful to

13   kind of establish some of that timeline.

14   So you first got to Facebook in

15   October 2012 as a product manager on the photos

16   team?

17   A   Uh-huh.

18   Q   How long were you a product manager on

19   the photos team?

20   A   I would say that is a complex question

21   because the photos team itself changed to be the

22   friend sharing team, which I do not remember

23   exactly when that was.

24   I would say that I probably stayed on

25   the photos team or what used to be the photos team

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 1    or like a fairly similar position until -- let's

 2    see, probably March 2015.

 3                   Wait just a second.  Yes, I think

 4    that's right.

 5         Q     And do you recall when the photos team

 6    transitioned to become known as the friend sharing

 7    team?

 8         A     I think it was towards the end of

 9    2014.  I'm not entirely sure.

10         Q     And what was the reason that the photo

11    team transitioned to become the friend sharing

12    team?

13                   MR. NADOLENCO:  Objection to the

14    extent it lacks foundation.

15                   THE WITNESS:  I don't know all of the

16    factors that were involved.

17                   One of the things was that we started,

18    for example, caring about all or having the scope

19    of all sharing, not just photo sharing.

20                   MR. NADOLENCO:  You think you're close

21    to a break point?

22                   MR. RHODES:  We can take a break

23    whenever you guys want.

24                   MR. NADOLENCO:  We have been going an

25    hour and fifteen minutes, so whenever you're --
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 1          Q       Did you ever meet with Mark Zuckerberg

 2    during your -- the course of your work as a

 3    product manager --

 4          A       Yes.

 5          Q       -- of Facebook?

 6          A       Yes.

 7          Q       Approximately how many times?

 8          A       Probably three, four.  I don't

 9    remember exactly.

10          Q       So not like once a week?

11          A       Definitely not once a week.

12          Q       Okay.  Do you remember -- strike that.

13    Were any of those meetings about facial

14    recognition?

15          A       Yes.

16          Q       Okay.  Do you remember when the first

17    time you met with him to discuss facial

18    recognition was?

19          A       Yes.

20          Q       When was that?

21          A       I couldn't give a specific date.  It

22    was -- if I had to speculate, probably early 2013.

23          Q       Okay.  So that's actually around this

24    time.

25                  This is from March 18, 2013.  What was
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